

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

-----X  
WILLIAM MALANGA,

Plaintiff,

-against-

ARCHDIOCESE OF NEW YORK and  
OUR LADY OF REFUGE,

Defendants.  
-----X

## SUMMONS

Plaintiff(s) designate  
County as the place of trial.  
Bronx  
The basis of the venue is  
Defendant's place of business

Plaintiff(s) reside at  
210 Haverford Court  
Matawan, NJ 07747

Index No.:  
Date Summons &  
Complaint Filed:

### To the above named Defendant(s)

**You are hereby summoned** to answer the complaint in this action, and to serve a copy of your answer, or if the complaint is not served with this summons, to serve a notice of appearance on the plaintiff's attorney(s) within twenty days after the services of this summons exclusive of the day of service, where service is made by delivery upon you personally within the state, or within 30 days after completion of service where service is made in any other manner. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: Port Washington, NY  
September 16, 2019

By:   
Brett A. Zekowski  
**Parker Waichman LLP**  
*Office & Post Office Address:*  
6 Harbor Park Drive  
Port Washington, NY 11050  
(516) 466-6500  
Our File # 9005314

TO: Archdiocese of New York  
1011 First Avenue  
New York, New York 10022

Our Lady of Refuge  
290 East 196<sup>th</sup> Street  
Bronx, NY 10458

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX-----X  
WILLIAM MALANGA**VERIFIED COMPLAINT**

Plaintiff(s),

Index No.:

Jury Trial Demanded

-against-

ARCHDIOCESE OF NEW YORK and  
OUR LADY OF REFUGE,Defendant(s).  
-----X

Plaintiff, WILLIAM MALANGA, by his attorneys Parker Waichman LLP, complaining of the defendants, respectfully alleges, on personal knowledge as to himself and on information and belief as to all other matters, as follows:

1. At the time of the commencement of this action plaintiff, WILLIAM MALANGA, was a resident of the County of Monmouth, State of New Jersey.
2. At the time of the incident(s) giving rise to this complaint, plaintiff was a resident of the County of Bronx State of New York.
3. This action is timely pursuant to CPLR 214-g.
4. At all times herein mentioned, defendant, ARCHDIOCESE OF NEW YORK, was a religious corporation organized pursuant to the Religious Corporations Law, with its principal office at 1011 First Avenue, New York, New York.
5. At all times herein mentioned, defendant, OUR LADY OF REFUGE, was a religious corporation organized pursuant to the Religious Corporations Law with its principal office 290 East 196<sup>th</sup> Street, Bronx, New York.
6. At all times herein mentioned, defendant, OUR LADY OF REFUGE, was a religious church within and under the authority of defendant, ARCHDIOCESE OF NEW YORK.

7. At all times herein mentioned, defendant, OUR LADY OF REFUGE, was a religious school within and under the authority of defendant, ARCHDIOCESE OF NEW YORK.

8. At all times herein mentioned, defendant, OUR LADY OF REFUGE, oversaw, managed, controlled, directed and operated, defendant, OUR LADY OF REFUGE.

9. At all times herein mentioned, defendant, ARCHDIOCESE OF NEW YORK, oversaw, managed, controlled, directed and operated, defendant, OUR LADY OF REFUGE.

10. At all times herein mentioned, defendant, ARCHDIOCESE OF NEW YORK, managed, supervised and controlled those who were employed or otherwise worked for defendant, OUR LADY OF REFUGE, including, but not limited to priests, nuns and other personnel and volunteers, both while they were on premises and engaged in off-premises activities related to their employment with defendant, ARCHDIOCESE OF NEW YORK.

11. At all times herein mentioned, defendant, OUR LADY OF REFUGE, managed, supervised and controlled those who were employed or otherwise worked for defendant, OUR LADY OF REFUGE, including, but not limited to priests, nuns and other personnel and volunteers, both while they were on premises and engaged in off-premises activities related to their employment with defendant, ARCHDIOCESE OF NEW YORK.

12. From on or about January 1, 1962 through on or about December 31, 1965, plaintiff, WILLIAM MALANGA, an infant, was a resident under the care of OUR LADY OF REFUGE.

13. From on or about January 1, 1962 through on or about December 31, 1965, plaintiff, WILLIAM MALANGA, was a student/alter server under the care of defendant, OUR LADY OF REFUGE.

14. At all times herein mentioned and relevant to the allegations set forth herein Father Ryan Hymer, was a priest assigned by defendant, ARCHDIOCESE OF NEW YORK, to defendant, OUR LADY OF REFUGE.

15. At all times herein mentioned and relevant to the allegations set forth herein, Father Ryan Hymer, was a priest at defendant, OUR LADY OF REFUGE.

16. At all times herein mentioned, Father Ryan Hymer, was employed by defendant, ARCHDIOCESE OF NEW YORK.

17. At all times herein mentioned, Father Ryan Hymer, was employed by the defendant, OUR LADY OF REFUGE.

18. Through his position with defendant, ARCHDIOCESE OF NEW YORK, Father Ryan Hymer, was put in direct contact with plaintiff, WILLIAM MALANGA, then an infant.

19. Through his position with defendant, OUR LADY OF REFUGE, Father Ryan Hymer, was put in direct contact with plaintiff, WILLIAM MALANGA, then an infant.

20. That on or about January 1, 1962 through December 31, 1965, Father Ryan Hymer, sexually abused the plaintiff, WILLIAM MALANGA.

21. At all times herein mentioned, Father Ryan Hymer, was under the management, supervision, employ, direction and/or control of defendant, ARCHDIOCESE OF NEW YORK.

22. At all times herein mentioned, Father Ryan Hymer, was under the management, supervision, employ, direction and/or control of defendant, OUR LADY OF REFUGE.

23. Defendants, ARCHDIOCESE OF NEW YORK and OUR LADY OF REFUGE, knew and/or reasonably should have known and/or knowingly condoned and/or covered up, the inappropriate and unlawful sexual activities of Father Ryan Hymer, who sexually abused the plaintiff, WILLIAM MALANGA, while plaintiff, WILLIAM MALANGA, was an infant.

24. Defendant, ARCHDIOCESE OF NEW YORK, had the responsibility to manage, supervise, control and/or direct priests assigned to defendant, OUR LADY OF REFUGE.

25. Defendant, OUR LADY OF REFUGE, had the responsibility to manage, supervise, control and/or direct priests assigned to defendant, OUR LADY OF REFUGE.

26. At all relevant times, defendants, ARCHDIOCESE OF NEW YORK and OUR LADY OF REFUGE, had a duty not to aid pedophiles such as Father Ryan Hymer, by assigning, maintaining and/or appointing he/she to positions in which he/she would have access to minors.

27. At all relevant times, Father Ryan Hymer, used his position as a priest to entice, take control of plaintiff, WILLIAM MALANGA, and sexually assault, sexually abuse or have sexual contact with plaintiff, WILLIAM MALANGA, while plaintiff was a minor.

28. Defendants, individually, jointly and/or severally, violated various New York statutes, including, but not limited to N.Y. Soc. Serv. Law §§413 and 420, which require school officials and teachers to report suspected cases of child abuse and impose liability for failure to report.

29. Plaintiff suffered physical and psychological injuries and damages as a result of his childhood sexual abuse by Father Ryan Hymer.

30. As a direct result of defendants' conduct, plaintiff suffered and will continue to suffer great pain of body and mind, severe and permanent emotional distress and physical manifestations of emotional distress. As a result of his childhood sexual abuse, plaintiff has been prevented from obtaining the full enjoyment of life, has incurred and will continue to incur expenses for medical and psychological treatment, therapy and counseling and has incurred and will continue to incur loss of income and/or loss of earning capacity.

31. Because of his childhood sexual abuse, plaintiff WILLIAM MALANGA is unable to fully describe all of the details of that abuse and the extent of the harm that he suffered as a result.

**AS AND FOR A FIRST CAUSE OF ACTION  
NEGLIGENT HIRING, RETENTION, SUPERVISION AND/OR DIRECTION**

32. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1

through 30 as if fully set forth herein.

33. The sexual abuse of children by adults, including priests and teachers, is foreseeable.

34. Defendants, ARCHDIOCESE OF NEW YORK and OUR LADY OF REFUGE, at all relevant times represented and held out to the public, defendant, OUR LADY OF REFUGE, to be safe places for learning and participating in youth activities.

35. At all relevant times, defendants, ARCHDIOCESE OF NEW YORK and OUR LADY OF REFUGE, were each under an express and/or implied duty to protect and care for plaintiff, WILLIAM MALANGA

36. Defendants, ARCHDIOCESE OF NEW YORK and OUR LADY OF REFUGE, negligently hired, retained, directed and supervised Father Ryan Hymer, because they knew or should have known that Father Ryan Hymer, posed a threat of sexual abuse of children such as plaintiff.

37. Defendants, ARCHDIOCESE OF NEW YORK and OUR LADY OF REFUGE, knew or should have known that Father Ryan Hymer, had a propensity to engage in the conduct which caused plaintiff's injuries prior to or about the time of the occurrence of these injuries.

38. Defendants, ARCHDIOCESE OF NEW YORK and OUR LADY OF REFUGE, owed a duty of care to all minors, including plaintiff, who were likely to come under the influence or supervision of Father Ryan Hymer, in their role as teacher, priest, counselor, trustee, director, officer, employee, agent, servant and/or volunteer to ensure that Father Ryan Hymer, did not use their assigned positions to injure minors by sexual assault, sexual abuse or sexual contact with minors.

39. Father Ryan Hymer, sexually assaulted, sexually abused and/or had sexual contact with plaintiff, WILLIAM MALANGA, on defendants' premises, including OUR LADY OF

REFUGE.

40. Defendants, ARCHDIOCESE OF NEW YORK and OUR LADY OF REFUGE, were put on notice of Father Ryan Hymer's improper and inappropriate actions toward minors.

41. Defendants, ARCHDIOCESE OF NEW YORK and OUR LADY OF REFUGE, were negligent in failing to properly supervise Father Ryan Hymer.

42. Defendants, ARCHDIOCESE OF NEW YORK and OUR LADY OF REFUGE, were negligent in failing to properly manage Father Ryan Hymer.

43. Defendants, ARCHDIOCESE OF NEW YORK and OUR LADY OF REFUGE, were negligent in failing to properly control Father Ryan Hymer.

44. At all relevant times, defendants, ARCHDIOCESE OF NEW YORK and OUR LADY OF REFUGE, were willful, wanton, malicious, reckless and/or outrageous in their disregard for the rights and safety of plaintiff.

45. As a direct and proximate result of defendants' above described omissions, plaintiff has suffered and will continue to suffer the injuries described herein.

46. By reason of the foregoing, the defendants are liable to plaintiff jointly, severally and/or in the alternative, for compensatory damages and punitive damages, together with costs and interest in excess of the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**AS AND FOR A SECOND CAUSE OF ACTION  
NEGLIGENCE/GROSS NEGLIGENCE**

47. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 44 as if fully set forth herein.

48. Defendants, ARCHDIOCESE OF NEW YORK and OUR LADY OF REFUGE, knew or negligently failed to know that Father Ryan Hymer, posed a threat of sexual abuse to

children.

49. The acts of Father Ryan Hymer, as described above, were undertaken, enabled by, and/or during the course of their respective employment, assignment, appointment and/or agency with defendants, ARCHDIOCESE OF NEW YORK and OUR LADY OF REFUGE.

50. Defendants, ARCHDIOCESE OF NEW YORK and OUR LADY OF REFUGE:

- a. gave improper or ambiguous orders or failed to make proper regulations, and/or employed improper persons in work involving risk of harm to others;
- b. failed to adequately supervise the activities of Father Ryan Hymer;
- c. failed to adequately supervise and safeguard minors attending defendant, OUR LADY OF REFUGE;
- d. permitted and/or intentionally failed and/or neglected to prevent negligent or tortious conduct by persons, whether or not their servants, agents or employees, upon premises under their control; and
- e. allowed the acts of omission and/or commission of any or all of the allegations set forth in this Complaint to occur.

51. At all relevant times Father Ryan Hymer, was under the supervision, employ, direction and/or control of defendants, ARCHDIOCESE OF NEW YORK and OUR LADY OF REFUGE.

52. At all relevant times, defendants, ARCHDIOCESE OF NEW YORK and OUR LADY OF REFUGE, were wanton, willful, malicious, reckless and outrageous in their disregard for the rights and safety of plaintiff, which conduct was equivalent to criminal conduct.

53. As a direct and/or indirect result of said conduct, plaintiff has suffered injuries and damages as described herein.

54. By reason of the foregoing, defendants jointly, severally and/or in the alternative

are liable to plaintiff for compensatory damages and for punitive damages, together with interest and costs in excess of the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**THIRD CAUSE OF ACTION  
BREACH OF FIDUCIARY DUTY**

55. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 53 as if fully set forth herein.

56. At all relevant times, there existed a fiduciary relationship of trust, confidence, and reliance between plaintiff, on the one hand. and defendants, ARCHDIOCESE OF NEW YORK and OUR LADY OF REFUGE, on the other, based upon the entrustment of plaintiff, while he was a minor child, to the care and supervision of the defendants and each of them, as a parishioner, worshiper, invitee, attendee, student or guest at defendant, OUR LADY OF REFUGE, and as a student, invitee, attendee, student or guest at defendant, OUR LADY OF REFUGE. The entrustment of the plaintiff to the care and supervision of the defendants and each of them, while plaintiff was a minor child, required the defendants to assume a fiduciary role and to act in the best interests of the plaintiff and to protect him while he was a minor and vulnerable child.

57. Pursuant to their fiduciary relationship with plaintiff, defendants were entrusted with the well-being, care and safety of plaintiff.

58. Pursuant to their fiduciary relationship with plaintiff, defendants assumed a duty to act in the best interests of plaintiff.

59. Defendants, ARCHDIOCESE OF NEW YORK and OUR LADY OF REFUGE, breached their fiduciary duties to plaintiff.

60. At all relevant times, the actions and/or inactions of defendants, ARCHDIOCESE OF NEW YORK and OUR LADY OF REFUGE, were willful, malicious, wanton, reckless and

outrageous in their disregard for the rights and safety of plaintiff.

61. As a direct result of defendants' conduct, plaintiff has suffered injuries and damages described herein.

62. By reason of the foregoing, defendants, jointly, severally and/or in the alternative are liable to plaintiff for compensatory damages and for punitive damages, together with interest and costs in excess of the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**FOURTH CAUSE OF ACTION  
BREACH OF NON-DELEGABLE DUTY**

63. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 61 as of fully set forth herein.

64. When he was a minor, plaintiff, WILLIAM MALANGA, was placed in the care of defendants, ARCHDIOCESE OF NEW YORK and OUR LADY OF REFUGE, for the purposes of providing plaintiff with a safe environment in which to participate in youth activities and receive an education. There was thus created a non-delegable duty of trust between plaintiff and defendants.

65. Plaintiff, WILLIAM MALANGA, was a vulnerable child when placed in the care of defendants, ARCHDIOCESE OF NEW YORK and OUR LADY OF REFUGE.

66. Defendants, ARCHDIOCESE OF NEW YORK and OUR LADY OF REFUGE, and each of them, were in the best position to prevent plaintiff from being abused and/or to have learned of the repeated abuse by Father Ryan Hymer, and to have stopped it.

67. As evidenced by the fact that plaintiff, WILLIAM MALANGA, was sexually abused as a minor child entrusted to the care of the defendants, these defendants breached their non-delegable duty to plaintiff.

68. At all relevant times, Father Ryan Hymer, was under the supervision, employment, direction and/or control of defendants, ARCHDIOCESE OF NEW YORK and OUR LADY OF REFUGE.

69. As a result of the sexually abusive conduct of Father Ryan Hymer, plaintiff, WILLIAM MALANGA, suffered the injuries and damages described herein, the full extent of which is unknown at present.

70. By reason of the foregoing, defendants jointly, severally and/or in the alternative are liable to plaintiff for compensatory damages and for punitive damages, together with interest and costs in excess of the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**FIFTH CAUSE OF ACTION  
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

71. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 69 above as if set forth at length herein.

72. As described above, defendants, ARCHDIOCESE OF NEW YORK and OUR LADY OF REFUGE and Father Ryan Hymer, acted in a negligent and/or grossly negligent manner.

73. The actions of defendants, ARCHDIOCESE OF NEW YORK and OUR LADY OF REFUGE and Father Ryan Hymer, endangered plaintiff's safety and caused him to fear for his own safety.

74. As a direct and proximate result of the actions of defendants, ARCHDIOCESE OF NEW YORK and OUR LADY OF REFUGE, which included, but were not limited to, negligent and/or grossly negligent conduct, plaintiff suffered severe injuries and damages as described herein, including, but not limited to, mental and emotional distress.

75. By reason of the foregoing, defendants, jointly, severally and/or in the alternative are liable to plaintiff for compensatory damages and for punitive damages, together with costs and interest in excess of the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**SIXTH CAUSE OF ACTION  
BREACH OF DUTY *IN LOCO PARENTIS***

76. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 74 as if set forth at length herein.

77. While he was a minor, plaintiff was entrusted by his parents to the control of the defendants, ARCHDIOCESE OF NEW YORK and OUR LADY OF REFUGE, for the purposes of providing plaintiff with an education and allowing him to participate in youth activities sponsored by defendants. During the times that plaintiff was at school and during the times that he participated in youth activities, he was under the supervision and control of defendants, ARCHDIOCESE OF NEW YORK and OUR LADY OF REFUGE. These defendants, and each of them, at all relevant times and now, owed and owe a duty to children entrusted their care to act *in loco parentis* and to prevent foreseeable injuries.

78. Defendants, ARCHDIOCESE OF NEW YORK and OUR LADY OF REFUGE, breached their duty to act *in loco parentis*.

79. At all relevant times the actions of defendants, ARCHDIOCESE OF NEW YORK and OUR LADY OF REFUGE, were willful, malicious, wanton, reckless, negligent, grossly negligent and/or outrageous in their disregard for the rights and safety of plaintiff.

80. As a direct result of defendants' conduct, plaintiff, WILLIAM MALANGA, has suffered the injuries and damages described herein.

81. By reason of the foregoing, defendants jointly, severally and/or in the alternative,

are liable to plaintiff for compensatory damages, and for punitive damages, together with interest and costs in excess of the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**SEVENTH CAUSE OF ACTION  
BREACH OF STATUTORY DUTY PURSUANT TO NEW YORK  
SOCIAL SERVICES LAW §§ 413, 420 TO REPORT ABUSE**

82. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 80 as if fully set forth herein.

83. Pursuant to N.Y. Social Services Law §§413, 420, defendants, ARCHDIOCESE OF NEW YORK and OUR LADY OF REFUGE, had a statutory duty to report the reasonable suspicion of abuse of children in their care.

84. Defendants, ARCHDIOCESE OF NEW YORK and OUR LADY OF REFUGE, breached that duty by knowingly and willfully failing to report reasonable suspicion of abuse by Father Ryan Hymer, of children in their care.

85. As a direct and/or indirect result of said conduct, plaintiff has suffered injuries and damages as described above.

86. By reason of the foregoing, defendants jointly, severally and/or in the alternative are liable to plaintiff for compensatory damages and punitive damages, together with costs and interest in excess of the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**WHEREFORE**, plaintiff demands judgment against defendants on each cause of action as follows:

- A. Awarding compensatory damages in an amount to be proven at trial, but in any event in an amount that exceeds the jurisdictional limits of all lower

courts which would otherwise have jurisdiction;

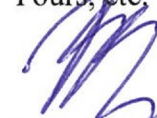
- B. Awarding punitive damages to the extent permitted by law;
- C. Awarding prejudgment interest to the extent permitted by law;
- D. Awarding costs and fees of this action, including attorneys' fees, to the extent permitted by law;
- E. Awarding such other and further relief as to this Court may seem just and proper.

### **JURY DEMAND**

Plaintiff demands a trial by jury on all issues so triable.

Dated: Port Washington, New York  
September 16, 2019

Yours, etc.



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Brett A. Zekowski  
**Parker Waichman LLP**  
*Attorneys for Plaintiff(s)*  
**Office & Post Office Address**  
6 Harbor Park Drive  
Port Washington, NY 11050  
516-466-6500  
Our File # 9005314

## ATTORNEY'S VERIFICATION

STATE OF NEW YORK )

: ss :

COUNTY OF NASSAU )

Brett A. Zekowski, an attorney and counselor at law, duly admitted to practice in the Courts of the State of New York, affirms the following to be true under penalties of perjury:

I am an associate of the firm **Parker Waichman LLP** attorneys for the plaintiff(s) herein.

I have read the foregoing Complaint and know the contents thereof. Upon information and belief, I believe the matters alleged therein to be true.

The source of your deponent's information and the grounds of my belief are communications, papers, reports and investigations contained in my file.

The reason this verification is made by deponent and not by plaintiff(s) is that plaintiff(s) reside in a county other than the one in which your deponent's office is maintained.

Dated: Port Washington, NY  
September 16, 2019

  
\_\_\_\_\_  
Brett A. Zekowski

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

WILLIAM MALANGA,

Plaintiff,

-against-

ARCHDIOCESE OF NEW YORK and  
OUR LADY OF REFUGE,

Defendants.

SUMMONS, VERIFIED COMPLAINT AND JURY DEMAND

Certification per 22NYCRR §130-1.1a

**Brett A. Zekowski**  
**Parker Waichman LLP**  
*Attorneys for Plaintiff(s)*  
**6 Harbor Park Drive**  
**Port Washington, NY 11050**  
**(516) 466-6500**

To:  
Attorney(s) for

Service of a copy of the within is hereby admitted.

Dated: .....  
Attorney(s) for

**PLEASE TAKE NOTICE**  
**NOTICE OF**

**ENTRY** that the within is a (certified) true copy of a entered in the office of the Clerk of the within named  
Court on 2019 .

**NOTICE** that an Order of which the within is a true copy will be presented to the Hon. , one of the  
**OF**  
**SETTLEMENT** judges of the within named Court, at ,  
, on  
2019, at M.

Dated: September 16, 2019

Parker Waichman LLP  
*Attorneys for Plaintiff(s)*

TO: